

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-18637of 2017

Date of Decision: 19.7.2017

Savita @ Kavita

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Chirag Kundu, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr. Rajesh Dahiya, Advocate,
for the complainant.

RAJIV NARAIN RAINA, J.

1. This is the first petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.13 dated January 15, 2017 under Sections 364, 120-B, 201, 307, 302 IPC registered at Police Station Bhattu Kalan.

2. The petitioner was the wife of Roshan deceased who died of injuries received in a road accident. From the place of accident Roshan was taken to hospital for treatment where he remained under treatment and unfit to make statement from January 07, 2017 to January 10, 2017. On January 15, 2017 when ASI Jagdish Ram reached the hospital the injured was again declared unfit to make a statement.

3. The complainant Mahender Singh is the maternal uncle of deceased Roshan. He made a statement that he visited the patient on January

13, 2017 and found that Roshan had gained consciousness. Roshan narrated the whole story to Mahender Singh in the absence of any other person present in the hospital room where Roshan was under treatment and while the doctor had declared the patient unfit to make the statement. Earlier, and soon after the accident, complainant Mahender Singh made a statement to the police that he received a telephonic call from his brother-in-law Balbir who had in turn received a telephonic call from one Banshi Lal s/o Mahavir Singh who used to run an Ambulance and was informed that Roshan had met with an accident.

4. Illicit relations were imputed against the petitioner with the co-accused. The case has been registered against the petitioner under Section 307 and 302 of the IPC. She was arrested on January 18, 2017 and remanded to judicial custody. The petitioner is a mother of minor child of three years who is said to be residing with the maternal grandfather. There can be hardly any doubt that the child needs motherly care and the two can be separated only for compelling reasons of crime and sufficient possibility of facing sentence. It is not disputed that the investigation in the case is already completed and the challan has been presented under Section 173 of the Cr.P.C. No recoveries are to be made from the petitioner. The trial is likely to take time. I fail to see why the petitioner should not be admitted to the concession of bail pending trial as no useful purpose will be served to keep her incarcerated in District Jail Hisar any longer, pending framing of charge/trial.

5. In the facts and circumstances, the petitioner deserves the concession of bail especially when there is a minor child of three years for

the mother to care for.

6. I do not accept the argument of the learned counsel for the State that the child can be sent to jail to live with the mother in judicial custody as that would result in trauma and a psychiatric shock to the minor child which will remain indelible and incurable till her living life.

7. The evidence in the case would rest on a confessional statement and that is the matter of trial. The petitioner is not involved in any other case.

8. As a result of the above discussion, the petition is allowed. The petitioner is admitted to regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

(RAJIV NARAIN RAINA)
JUDGE

19.7.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*